

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7077

BILL NUMBER: HB 1733

DATE PREPARED: Jan 9, 1999

BILL AMENDED:

SUBJECT: Withheld conviction and community supervision.

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FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill allows a court to receive a plea of guilty and, without entering a judgment of conviction, defer further proceedings and place the defendant on community supervision. It allows the court to withhold the entry of judgment of conviction if the court believes that the best interests of society and the defendant are likely to be served. It also prohibits a court from withholding judgment of conviction if the defendant commits murder, a Class A or Class B felony, a violent crime, or a sex offense, has a previous conviction of an offense, or has had a previous judgment of conviction withheld or the local prosecuting attorney does not consent.

This bill specifies numerous conditions of community supervision, which may include various rehabilitative options such as community service, placement in a community corrections program, inpatient or outpatient mental health treatment, and the payment of restitution. It provides that upon a violation of the conditions of community supervision, the court may modify or revoke the community supervision. It also provides that if the court revokes the community supervision, the court may enter judgment of conviction and continue the proceedings as if the judgment of conviction had not been withheld.

The bill provides that, upon the expiration of a community supervision period, if the court has not proceeded to enter a judgment of conviction, the court shall dismiss the proceedings against the defendant and discharge the defendant. The bill also prescribes guidelines for implementing the community supervision program to be operated by the probation department.

Effective Date: July 1, 1999.

Explanation of State Expenditures: This bill provides another sentencing alternative for courts which may affect the number of persons sentenced to DOC facilities for Class C and D felonies.

Explanation of State Revenues:

Explanation of Local Expenditures: Passage of this bill will affect numerous aspects of county probation offices, which are required to monitor persons placed under probation “community supervision” with a withheld entry of judgment (i.e., deferred adjudication). Probation staff suggest that the persons who would have been placed on probation may instead receive deferred adjudication. Under this bill, several new supervision conditions may be assigned by the court to those who receive deferred adjudications. These conditions may require added administrative and staff expenses for probation offices that provide monitoring.

This bill would extend the allowed period of probation from the maximum sentence of the underlying crime for misdemeanors (up to two years) and felonies (up to ten years) for a guilty pleas that lead to deferred adjudication, as follows:

	Offense Class	Maximum Probation Supervision Period	Additional Supervision Period Possible
Misdemeanors	A	1 year	1 year
	B	180 days	1.5 years
	C	60 days	1.8 years
Felonies	C	8 years	2 years
	D	3 years	7 years

Lengthening the period for deferred adjudicates may add to the number of total persons placed under county probation supervision, depending on court decisions regarding persons placed in deferred adjudication instead of regular probation. (A court may also modify and extend the period of community supervision for violations and increase it to a maximum of three years for misdemeanors.)

At least two other states have statutory deferred adjudication procedures (Texas and Florida). This bill is similar to the Texas statutory language. In Texas, persons who receive deferred adjudication represent a significant percentage of those placed under probation supervision. In FY 96, these represented 35% of 89,189 new felony offenders added during the year and 39% of 203,492 misdemeanor offenders added. Texas experience suggests the following two main court usages for deferred adjudication: (1) allowing first-time offenders to avoid establishing a criminal record; and (2) providing for a deferred adjudication plea bargain and avoiding a trial for offenders with prior criminal histories. (An offender who violates any deferral conditions may then be immediately sentenced for the underlying offense conviction.)

Indiana’s adoption of deferred adjudication will affect the number of persons accepted from other states for probation supervision. Presently, Indiana’s interstate probation compact does not recognize a reciprocal supervision requirement for probationers entering Indiana who have not received convictions (i.e., those with deferred adjudications). This bill would require that these transfers be accepted for probation supervision.

The following figures represent the number of probation cases disposed of in CY 97 in Indiana:

Probation Class	Cases Disposed	Interstate Cases
Felony	20,712	765
Misdemeanor	60,117	225

Juvenile	24,407	74
Total	105,236	1,064

This bill provides that probation officers be given the authority to modify conditions for the purpose of transferring persons from among programs. It also provides probation officers with the official authority to arrest persons, an authority they do not currently have in Indiana. Extension of such authority may require additional law enforcement training expenses. There are 987 probation officers in the state as of January, 1999.

This bill provides for offenders placed under community supervision to pay court costs, fines and “any other relevant fees,” as well as to reimburse counties for the cost of appointed council and victim costs. Specific court costs and fees are not specified. Currently, those under probation supervision pay an initial users fee (and a monthly charge) of \$25 to \$100 for a felony (monthly charge of \$5 to \$15), and up to \$50 for a misdemeanor (up to \$10 monthly).

Explanation of Local Revenues: This bill does not specify individual fees or fee amounts for persons receiving deferred adjudications. Fees may be affected depending on: (1) whether persons, who might have been placed under current probation supervision, are placed in community supervision instead (with possibly different fees); and (2) whether more persons overall may be placed under probation supervision.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts; probation offices

Information Sources: Bob Champion, Indiana Judicial Center, 232-1313; George Walker, Marion County Probation Office; John Newton, Texas Legislative Budget Office; 1996 Indiana Probation Report.